

FILED

JAN 25 1984

ALEXANDER L. STEVAS
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

No. 83-1037

UNITED STATES OF AMERICA,
Petitioner,

versus

WILLIAM HOWARD CROSS, SR.,
Respondent,

INFORMAL BRIEF IN RESPONSE
TO THE GOVERNMENT'S PETITION
FOR A WRIT OF CERTIORARI

WILLIAM H. CROSS, SR.,
Pro se

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Marietta, Georgia 30066
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OCTOBER TERM, 1983

No. 83-1037

UNITED STATES OF AMERICA, PETITIONER

v.

WILLIAM HOWARD CROSS, SR.

INFORMAL BRIEF IN RESPONSE TO THE
GOVERNMENT PETITION FOR A
WRIT OF CERTIORARI

The Defendant, proceeding pro se, responds to the United States Petition for a Writ of Certiorari and shows good cause why the Petition should be denied.

OPINIONS BELOW

The opinion of the court of appeals is reported at 708 F. 2d 631 and the opinion of the district court is at 516 F. Supp. 700.

JURISDICTION

The opinion of the court of appeals was entered on June 30, 1983. The government's

petition for rehearing was denied on September 26, 1983. The government did not file to stay the Mandate in this case. On November 16, 1983, Justice Powell granted the government's request for an extension of time in which to file a petition for a Writ of Certiorari until December 25, 1983. The government filed a petition for a Writ of Certiorari on December 23, 1983. The jurisdiction of this court is invoked under 28 U.S.C. 1254 (1).

The Defendant respectfully submits that his Response to the government's petition for a Writ of Certiorari is timely filed.

STATEMENT

The government seeks to have this case disposed of in light of the court's decision in *Hobby v. United States*, No. 82-2140.

Respondant would respectfully show that this case is unlike that of *Hobby* for several reasons.

For years racial discrimination has been commonplace in south Georgia. This is an established way of life which only time can change. In the instant case, the discrimination the Respondant stands aggrieved of if the result of the unique circumstances that exist in the Middle District of Georgia. These circumstances do not necessarily exist in the Hobby case, or in any other circuit.

In the Middle District of Georgia, the elite white males have effectively controlled the administration of justice by selecting grand jury forepersons that were white males and who possessed basically the same morals and ideologies as they did, thereby making the grand jury foreperson a conduit in which they could effectively control who was and who was not indicted.

While Federal statutes suggest that the position of Grand Jury Foreman is constitu-

tionally insignificant, this is not the practice in the Middle District of Georgia.

In reality, and in application of those statutes which govern the duties of the grand jury foreperson, there exists in the Middle District of Georgia a situation which, however unique, does cause the position of grand jury foreperson to become constitutionally significant, even though this may not be in accord with what was intended by those statutes.

This situation magnifies the need for there to be a fair cross-section of the community represented when choosing the position of grand jury foreperson.

This situation was recognized by Judge Johnson when he states, we know what you want to do, to indict anybody you want to, whenever you want to, without anyone else having input, the control comes from the grand jury foreman.

The power endowed upon the grand jury foreperson, by the United States Attorney, and the other unique circumstances that exist in the Middle District of Georgia, decree his constitutional significance.

This is a situation that is the result of historical events that are unique only to this region and cannot be ignored.

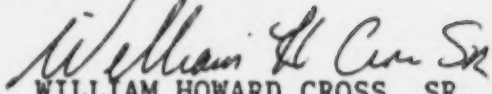
Therefore, the Respondant would respectfully urge that however similar the Hobby case may appear, in reality this case possesses a different set of circumstances, and retains a different spirit than that of Hobby.

CONCLUSION

In concluding, the Respondant would urge the Court not to grant the government's petition for a Writ of Certiorari, but to allow this case to be disposed of in accord with the opinion of the Eleventh

Circuit Court of Appeals.

Respectfully submitted.


WILLIAM HOWARD CROSS, SR.
pro se

JANUARY 1984.

CERTIFICATE OF SERVICE

This is to certify
that I have this day
served A copy of the
Within and foregoing document
By depositing the same
in the United States
Mail with Adequate
postage thereon to:

Rex E. Lee
Solicitor General
U. S. Department of Justice

This the 23rd day of
January 1984.

William H. Carr Sr